

Application No.: 09/483,277
Amendment dated: April 6, 2005
Reply to Office Action of: October 6, 2004

REMARKS

In the parent case, all the claims herein (47-50 and 52-61) were finally rejected under 35 U.S.C. §103. With some amendment of the independent claims, they are present herein and reconsideration is respectfully requested in view of the following considerations.

The rejection of claims 47-49 was based on U.S. Patent 4,071,698 (Barger) as a primary reference, along with U.S. Patent 4,763,191 (Gordon) as a secondary reference. At the outset, a rather detailed analysis of Barger is deemed to be helpful with respect to distinguishing the claims 47-49. First, it is noteworthy that Barger discloses several contingencies for an operator transfer. However, in each case, operator transfer from the computer mode (col. 5, line 18) is the exceptional rather than the usual course of operations.

Also, no disclosure can be located in Barger suggesting that an operator transfer involves the so called "screen pop function" whereby the operator is informed of certain entered customer data. Other distinctions are best illustrated by the following flow chart summarizing Barger operations.

BARGER OPERATIONS IN SEQUENCE

Instruct customer – col. 9, line 38;

Customer enters data to determine whether operator
Transfer – col. 9, lines 34, 140, 144;

Operator transfer or CPU – col. 9, lines 44-45

-TRANS:

If operator transfer, operator
"elicits customer data" – col. 10, lines 42
and interfaces CPU – col. 10, lines 44

-NO TRANS:

If no operator transfer,
CPU interfaces customer –
col. 11, line 23

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If delivery problem, operator
Transfer – col. 11, line 26

If customer is “freeloader”
Operator transfer – col. 11, line 36

First, note that Barger accommodates possibilities for an operator transfer at two different stages of the program. First, an operator transfer is possible at an early stage of the call as described in column 9 of Barger. Second, if no operator transfer occurs at the early stage of operation, another operator transfer possibility occurs during the computerized or CPU mode as described in column 11.

In both instances, the operator transfer is the unusual path. On the contrary, in Applicant’s claim 47, the transfer is recited to occur in a specific and distinct manner. In that regard, a display is specifically recited for provision to the operator. No suggestion of such operation appears. Rather, as indicated in the Barger specification, upon receiving a call, the operator “elicits customer data” (col. 10, line 41).

In relation to a further distinction, no suggestion can be found in Barger of recording “identification signals” ...”as additional data” as specified in claim 47. While each time a caller calls, a check is made to determine freeloader status (col. 11, line 39) no additional data signals provided by the communication facility are recorded as specified in claim 47.

Still another distinction is related to test operations. Specifically, Applicant’s claim 47 recites a test for approval to continue. Distinctly, the Barger test determines an operator transfer.

In summary, the distinctions of claim 47 specify a system that is distinct from Barger in the overall function. Furthermore, Gordon does not bridge the distinctions.

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Turning to the rejection of claims 50, 52-53 and 56-60, under 35 U.S.C 103 (a) the applied references were US Patent 4,797,911 (Szlam) and the Canadian patent 1,162,336 (De Bruyn). As indicated in the office action, De Bruyn tests to determine whether or not a caller has been recorded for a current lottery game. On the contrary, the philosophy of Applicant's system as defined by claim 50 involves testing true first time callers. Accordingly, a significant distinction exists with claims 50-61 in their present form.

As recognized, De Bruyn does not involve transferring of calls which element is sought from the Szlam reference. However, in view of the totally distinct operating philosophies and functions of Szlam and De Bruyn, reconsideration is respectfully requested with regard to the combination of such references.

In view of the present form of the claims, consideration is respectfully requested.

Respectfully submitted.

Respectfully submitted,

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